

Emergency Regulations for Authorized Onsite Soil Evaluators 12 VAC 5-615-10 et sec

Part 1

Article 1

General

12-VAC 5-615-10. Authority for regulations.

Title 32.1-164 of the Code of Virginia provides the State Board of Health has the duty to qualify individuals as authorized onsite soil evaluators (AOSEs) and establish procedures for utilizing the work of AOSEs and professional engineers (PEs) when issuing construction permits, certification letters, and subdivision approvals.

12 VAC 5-615-20. Purpose of regulations.

These regulations have been promulgated to:

A. Guide the state health commissioner in determining who should be listed as an authorized onsite soil evaluator.

B. Guide certified professional soil scientists and other soil consultants in the procedures necessary to become and maintain the status of authorized onsite soil evaluator.

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C. Guide authorized onsite soil evaluators and professional engineers in the processes and site documentation procedures necessary to secure timely responses to applications submitted to the Department.

D. Establish standards of practice and conduct for AOSEs.

E. Establish time limits for processing applications for persons applying to the Department for an approval with supporting documentation prepared by an authorized onsite soil evaluator or a professional engineer in consultation with an AOSE.

12 VAC 5-615-30. Relationship to the Sewage Handling and Disposal Regulations.

This chapter is supplemental to the current *Sewage Handling and Disposal Regulations* (12 VAC 5-610-10 et sec.) adopted by the State Board of Health pursuant to Title 32.1 of the Code of Virginia. This chapter addresses the Department's program for qualifying authorized onsite soil evaluators, processing applications with AOSE/PE supporting documentation, quality control procedures, and enforcement.

12 VAC 5-615-40. Administration of regulations.

This chapter is administered by the following:

1. State Board of Health. The State Board of Health, hereinafter referred to as the board, has the responsibility to promulgate, amend, and repeal regulations necessary

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to recognize and use the work of AOSE/PEs to site and design onsite wastewater systems in a manner that protects public health and the environment.

2. State Health Commissioner. The State Health Commissioner, hereinafter referred to as the commissioner, is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of regulations promulgated by the board, for the board when it is not in session. The commissioner may delegate authority under this chapter with the exception of the authority to issue orders under § 32.1-26 of the Code of Virginia. The commissioner has final authority to adjudicate contested decisions of subordinates delegated powers under this section prior to appeal of such decisions to the circuit court.

3. State Department of Health. The State Department of Health, hereinafter referred to as the Department, is designated as the primary agent of the commissioner for the purpose of administering this chapter.

4. District or local health departments. The district or local health departments are responsible for implementing and enforcing the operational activities required by this chapter.

12 VAC 5-615-50. Scope of Regulations.

A. Sewage Handling and Disposal Regulations. This Chapter describes the content and form of site and soil evaluation reports submitted to the Department by an AOSE/PE

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pursuant to an application filed for an approval under the *Sewage Handling and Disposal Regulations*. The Department will accept applications from owners (or their agent) without any site evaluation work (bare applications), with complete supporting documentation from an AOSE/PE, and on an interim basis, with complete supporting documentation from non-AOSE/PE consultants. Nothing in this Chapter should be construed to restrict the applications that the Department will accept. However, this chapter only addresses the requirements of the Department for applications submitted with AOSE/PE supporting documentation. However, only applications for residential development submitted in proper form with certification by an AOSE/PE shall be subject to processing time limits and deemed approval.

B. Local Ordinances. The provisions of local ordinances regarding onsite wastewater systems which are more restrictive than the *Sewage Handling and Disposal Regulations* are not affected by this regulation unless a locality indicates in writing that it desires the provisions of this chapter be applied to its more restrictive ordinances. When such a request is made, the Department will require all reports submitted in the locality to be certified as complying with both the *Sewage Handling and Disposal Regulations* and the more restrictive local requirements.

12 VAC 5-615-60. Roles and responsibilities.

A. AOSE Submissions. An AOSE/PE may certify that a site meets the requirements of the *Sewage Handling and Disposal Regulations* and may design traditional systems in

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accordance with the same regulations. Responsibility for assuring that site evaluations and designs comply with the *Sewage Handling and Disposal Regulations* rests with the AOSE/PE submitting the work. When a permit or other approval is based on the combined work of an AOSE/PE and the Department, the AOSE/PE shall be responsible only for the work he or she submits.

B. Department of Health Review. The Department's role in evaluating an AOSE/PE submission will be to review the materials submitted with an application for compliance with this Chapter, the *Sewage Handling and Disposal Regulations*, and the Department's policies prior to approval or disapproval of an application. The Department will also conduct sufficient field review after an approval has been issued to protect public health and the environment and to assess the performance of AOSE/PEs.

C. Construction Permit Revisions. An AOSE/PE must make minor revisions that are discovered to be necessary at any time, including but not limited to during the installation of the system, to a permit, certification letter or subdivision approval issued in reliance on the evaluations and/or designs of an AOSE/PE.

1. square footage of absorption area.
2. All revisions must fully comply with the *Sewage Handling and Disposal Regulations* and must be approved by the Department before the issuance of the operation permit.

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3. Whenever major revisions, such as changes in system design or location, are required, a new application in accordance with Part 3 of this Chapter shall be required.

D. Final Inspections. Before an Operation Permit may be issued for any system where the Department relied upon the evaluation and design of an AOSE/PE for issuance of a permit, the owner must furnish to the local health department a statement signed by the AOSE/PE. Such completion statement shall certify that the system was installed in accordance with the permit and with the *Sewage Handling and Disposal Regulations*.

12 VAC 5-615-70 Processing Time Limits and Deemed Approval.

- A. The provisions of this section apply only to applications for residential development.
- B. Application Review. Applications submitted with AOSE/PE documentation in the form specified in this chapter shall be reviewed and a written approval or denial issued within the time frames specified in Table 1.1 of this subsection. In the event the application is denied, the Department shall set forth in writing the reasons for denial.

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<u>Type of Application</u>	<u>Time Limit</u>
<u>Individual Permit Application</u>	<u>15 days</u>
<u>Individual Certification Letter</u>	<u>20 days</u>
<u>Multiple Lot Certification Letter</u>	<u>60 days</u>
<u>Subdivision Review</u>	<u>60 days</u>

Table 1.1

C. Deemed approval. If the Department fails to approve or disapprove an AOSE/PE application or a request for a subdivision review properly submitted in accordance with this chapter within the time limits specified in Table 1.1, the applications shall be deemed approved and the appropriate letter, permit, or approval shall be issued.

12 VAC 5-615-80 The Practice of Engineering.

A. Chapter 1028, § 32.1-163.5 of the Code of Virginia provides that an AOSE may site and design traditional onsite systems; however, the same section provides that no one other than a licensed professional engineer may practice engineering. Chapter 4, §54.1-400 of the Code of Virginia states “The practice of engineering” means any service wherein the principles and methods of engineering are applied to, but are not necessarily limited to, the following areas: consultation, investigation, evaluation, planning and

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design of public or private utilities, structures, machines, equipment, processes, transportation systems and work systems, including responsible administration of construction contracts. The term "practice of engineering" shall not include the service or maintenance of existing electrical or mechanical systems.

B. An AOSE may submit site and soil evaluations as described in this chapter for any traditional system regardless of whether the system design requires an engineer. An AOSE however, may only submit system designs and specifications for systems that do not require the practice of engineering. When a system is sufficiently complex to require the practice of engineering, formal plans and specifications, sealed by a Professional Engineer (PE) shall be required.

C. Some traditional systems (see definition) may require the practice of engineering. An AOSE may design traditional systems that do not require the practice of engineering.

D. When engineering plans and specifications are required for an application submitted pursuant to this Chapter, the site evaluation work shall be either conducted and certified by an AOSE or certified by a PE working in consultation with an AOSE. When the site and soil evaluation submitted in support of the application is submitted by a PE, the engineer shall submit a statement indicating that he or she consulted with a specific AOSE, giving both the name and certification number of the AOSE, on the proposal under review.

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12 VAC 5-615-90. AOSE Certification Required. No person shall sign a certification statement for submittal to the Department in support of an application for a sewage disposal system construction permit representing that he or she is an AOSE/PE or otherwise represent that he or she is an AOSE/PE unless that person possess a valid certification as an AOSE issued by the commissioner in accordance with 12 VAC 5-615-22A or unless that person is a Virginia licensed Professional Engineer who has consulted with an AOSE in accordance with this Chapter.

12 VAC 5-615-100. Right of entry.

The commissioner or the commissioner's designee shall have the right to enter any property to assure compliance with this Chapter in accordance with the provisions of § 32.1-25 of the Code of Virginia.

Article 2

Definitions

12 VAC 5-615-110. Definitions.

The following words and terms when used in this Chapter shall have the following meanings, unless the context clearly indicates otherwise:

AOSE/PE. Means an authorized onsite soil evaluator or a professional engineer working in consultation with an authorized onsite soil evaluator.

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Authorized Onsite Soil Evaluator (AOSE). Means a person currently listed by the Board as possessing the qualifications to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils as the locations for traditional onsite sewage disposal systems.

Board. Means the State Board of Health.

Certification Letter. Means a letter issued by the department, in lieu of a construction permit, which identifies a specific site and recognizes the appropriateness of the site for an onsite wastewater disposal system.

Deemed Approved or Deemed Approval. Means that the Department has failed to take action to approve or disapprove an application for a permit, an individual lot certification letter, multiple lot certification letters, or subdivision approval for residential development within the time limits prescribed in §§ 32.1-163.5 and 164.H. Upon such failure, an application submitted in proper form pursuant to this Chapter is deemed approved and the appropriate letter or letters, permit, or approval shall be immediately issued by the Department. Deemed approval applies only to applications for single-lot construction permits, subdivision review, and single or multiple-lot certification letters submitted with evaluations and designs certified by an AOSE/PE in accordance with the provisions of the *Code*, the *Sewage Handling and Disposal Regulations*, and this Chapter. Further, sites that have been previously denied by the Department are not

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subject to the provisions of deemed approval. An application “deemed approved” means that it is approved only with respect to the Board of Health’s *Regulations*. In accordance with 12 VAC 5-615-50 B a local government may authorize the Department in writing to implement the provisions of any local ordinance that are more restrictive than the *Sewage Handling and Disposal Regulations* through the provisions of this Chapter.

Multiple lot certification letters. Means two or more applications for certification letters filed by the same owner for existing or proposed lots to serve detached, individual dwellings.

Professional Engineer in consultation with an AOSE. Means that a Professional Engineer has communicated with an AOSE regarding the site and soil conditions present where the system is proposed, in a manner sufficient to assure compliance with the *Sewage Handling and Disposal Regulations* and this Chapter.

Residential Development. Means development using single family homes, which utilize individual onsite sewage systems for each structure. Mass drainfields and other cluster systems which serve more than one dwelling are not considered residential development for the purposes of this Chapter.

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Single lot construction permit/certification letter. Means one application filed by an owner for a sewage disposal system construction permit or certification letter to serve an individual dwelling on one lot or parcel of land.

Subdivision review. Means the review of a proposed subdivision plat by a local health department for a local government pursuant to a local ordinance or ordinances and pursuant to §§15.2-2242, 2259, and 2260 of the *Code* and § 360 of the *Sewage Handling and Disposal Regulations* for the purposes of determining and documenting whether or not an approved sewage disposal site(s) is present on each proposed lot.

Traditional Systems. Means onsite wastewater treatment and disposal systems for which design criteria are contained in the *Sewage Handling and Disposal Regulations*, except as noted below. At present traditional systems include gravity, pumped, and low-pressure distribution (lpd) septic effluent drainfields, and Wisconsin-type mound systems.

Traditional systems as defined in this regulation do not include experimental permits, conditional permits issued for temporary, intermittent or seasonal use, repair permits, septage stabilization systems, or systems permitted under a soil drainage management plan. Conditional construction permits issued for limited occupancy or the use of permanent water saving fixtures are not excluded (see 12 VAC 5-610-250 J).

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Part 2

Article 1

Compliance with Administrative Process Act

12 VAC 5-615-120. Compliance with Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act of the Code of Virginia shall govern the promulgation and administration of this Chapter and shall be applicable to the appeal of any case decision based upon this Chapter.

12 VAC 5-615-130. Emergency order or rule.

If an emergency exists the commissioner may issue an emergency order or rule as is necessary for preservation of public health, safety, and welfare. The emergency order or rule shall state the reasons and precise factual basis upon which the emergency rule or order is issued. The emergency order or rule shall state the time period for which it is effective.

12 VAC 5-615-140. Enforcement of regulations.

All activities of an AOSE/PE pertaining to evaluations and designs of sewage treatment systems governed by the *Sewage Handling and Disposal Regulations* and applications for certification as an AOSE shall comply with the requirements set forth in this Chapter.

The commissioner may enforce this Chapter through any means lawfully available.

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A. Notice. Subject to the exceptions indicated below, whenever the commissioner, the commissioner's designee, or the district or local health department has reason to believe a violation of this Chapter, any law administered by the Board, commissioner, or Department, any regulations of the Board, any order of the Board or commissioner, or any conditions in a permit has occurred or is occurring, the alleged violator shall be notified. Such notice shall be made in writing, shall be delivered personally or sent by certified mail, shall cite the regulation or regulations that are allegedly being violated, shall state the facts which form the basis for believing the violation has occurred or is occurring, shall include a request for a specific action by the recipient by a specified time and shall state the penalties associated with such violations (See § 32.1-27 of the Code of Virginia). When the commissioner deems it necessary the commissioner may initiate criminal prosecution or seek civil relief through mandamus or injunctive relief prior to giving notice.

B. Orders. Pursuant to the authority granted in § 32.1-26 of the Code of Virginia the commissioner may issue orders to require any person to comply with the provisions of this Chapter. The order shall be signed by the commissioner and may require:

1. The immediate cessation or correction, or both, of the violation;
2. The submission of a plan to prevent future violations to the commissioner for review and approval;
3. The submission of an application for certification as an AOSE, an application for a permit, or an application for a variance; and

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4. Any other corrective action deemed necessary for proper compliance with the regulations or to protect public health.

C. Hearing before the issuance of an order. Before the issuance of an order described in subsection B of this section, a hearing must be held with at least 30 days notice to the affected owner of the time, place and purpose thereof, for the purpose of adjudicating the alleged violation or violations of this Chapter. The procedure at the hearing shall be in accordance with 12 VAC 5-615-170 and with §§ 9-6.14:11 and 9-6.14:12 of the Code of Virginia.

D. Order; when effective. All orders shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the person violating this Chapter. Violation of an order is a misdemeanor. (See § 32.1-27 of the Code of Virginia.)

E. Compliance with effective orders. The commissioner may enforce all orders. Should any person fail to comply with any order, the commissioner may:

1. Apply to an appropriate court for an injunction or other legal process to prevent or stop any practice in violation of the order;
2. Seek mandamus against any owner or person that is a municipal corporation;
3. Request the Attorney General to bring an action for civil penalty;
4. Request the Commonwealth's Attorney to bring a criminal action.

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F. Not exclusive means of enforcement. Nothing contained in this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

12 VAC 5-615-150. Suspension of regulations during disasters.

If in the case of a man-made or natural disaster, the commissioner finds that certain regulations cannot be complied with and that the public health is better served by not fully complying with this Chapter, the commissioner may authorize the suspension of the application of the regulations for specifically affected localities and institute a provisional regulatory plan until the disaster is abated.

12 VAC 5-615-160. Variances.

The commissioner may grant a variance to this Chapter. The commissioner shall follow the appropriate procedures set forth in this section in granting a variance.

A. Definition of a variance. A variance is a conditional waiver of a specific regulation which is granted to a specific person and may be for a specified time period.

B. Requirements for a variance. The commissioner may grant a variance if a thorough investigation reveals that the hardship imposed (may be economic) by this Chapter outweighs the benefits that may be received by the public and that the granting of such variance does not subject the public to unreasonable health risks.

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C. Application for a variance. Any person who seeks a variance shall apply in writing for a variance. The application shall be sent to the commissioner for review. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Any relevant information in support of the request including information relating to experience or education received, or evaluations and designs conducted pursuant to the requirements of this Chapter;
4. The hardship imposed by the specific requirement of this Chapter;
5. A statement of reasons why the public health and welfare would be better served if the variance were granted;
6. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
7. Other information, if any, believed pertinent by the applicant; and
8. Such other information as the commissioner may require.

D. Evaluation of a variance application.

1. The commissioner shall act on any variance request submitted pursuant to subsection C of this section within 60 calendar days of receipt of the request.
2. In the commissioner's evaluation of a variance application, the commissioner shall consider the following factors:

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- a. The effect that such a variance would have on the performance of the AOSE/PE or system;
- b. The cost and other economic considerations imposed by this requirement;
- c. The effect that such a variance would have on protection of the public health;
- d. Any relevant information in support of the request including information relating to experience or education received, or evaluations and designs conducted pursuant to the requirements of this Chapter;
- e. The hardship imposed by enforcing the specific requirement of this Chapter;
- f. The applicant's statement of reasons why the public health and welfare would be better served if the variance were granted;
- g. The suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
- h. Other information, if any, believed pertinent by the applicant;
- i. Such other information as the commissioner may require; and
- j. Such other factors as the commissioner may deem appropriate.

E. Disposition of a variance request.

1. The commissioner may reject any application for a variance by sending notice to the applicant. The rejection notice shall be in writing and shall state the reasons for rejection. The applicant may petition for a hearing to challenge the rejection pursuant to 12 VAC 5-615-170 within 30 calendar days of receipt of notice of rejection.

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2. If the commissioner proposes to grant a variance request submitted pursuant to subsection C of this section, the applicant shall be notified in writing of this decision. Such notice shall identify the variance, person, property, or sewage handling or disposal facility covered, and shall specify the period of time for which the variance will be effective and any conditions imposed pursuant to issuing the variance. The effective date of a variance shall be 15 calendar days following its issuance.

3. No person may challenge the terms set forth in the variance after 30 calendar days have elapsed from the date of issuance.

F. Posting of variances. All variances granted are nontransferable. A variance may be attached to a person's certification to act as an AOSE or to a permit or other approval document. A variance is revoked when the permit or other approval or AOSE certification to which it is attached is revoked.

12 VAC 5-615-170. Hearing types.

Hearings before the commissioner or the commissioner's designees shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved.

A. Informal hearings. An informal hearing is a meeting with a Department employee designated by the commissioner and held in conformance with § 9-6.14:11 of the Code of Virginia. The commissioner's designee shall consider all evidence presented at the meeting which is relevant to the issue in controversy. Presentation of evidence, however, is entirely voluntary. The commissioner's designee shall have no subpoena power. No

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verbatim record need be taken at the informal hearing. The commissioner's designee shall review the facts presented and based on those facts render a decision. A written copy of the decision and the basis for the decision shall be sent to the appellant in a timely manner in accordance with § 9-6.14:11 unless the parties mutually agree to a later date in order to allow the department to evaluate additional evidence. If the decision is adverse to the interests of the appellant, an aggrieved appellant may request an adjudicatory hearing pursuant to 12 VAC 5-615-170 B by filing a written request for a hearing within 30 days of the date of the adverse decision.

B. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding before a hearing officer designated in accordance with § 9-6.14:14.1 of the Code of Virginia and held in conformance with § 9-6.14:12 of the Code of Virginia. An adjudicatory hearing includes the following features:

1. Notice. The parties to a formal proceeding shall be given reasonable notice of the proceeding in accordance with § 9-6.14:12.B of the Code of Virginia.
2. Record. A verbatim record of the hearing shall be made by a court reporter. A copy of the transcript of the hearing, if transcribed, will be provided within a reasonable time to any person upon written request and payment of the cost.
3. Evidence. All interested parties may attend the hearing and submit oral and documentary evidence and rebuttal proofs, expert or otherwise, that is material and relevant to the issues in controversy. The admissibility of evidence shall be determined in accordance with § 9-6.14:12 of the Code of Virginia.

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4. Counsel. All parties may be accompanied by and represented by counsel and are entitled to conduct such cross-examination as may elicit a full and fair disclosure of the facts.

5. Subpoena. Pursuant to § 9-6.14:13 of the Code of Virginia, the hearing officer may issue subpoenas for the attendance of witnesses and the production of books, papers, maps or other materials. Failure to appear or to testify or to produce materials without adequate excuse may be reported by the commissioner to the appropriate circuit court for enforcement.

6. Judgement and final order. As provided in § 9-6.14:14.1 the hearing officer shall make recommendations or conclusions for review and final decision by the commissioner. The final decision of the commissioner shall be reduced to writing and will contain the explicit findings of fact upon which a decision is based. A certified copy of the decision shall be delivered to the affected person. Notice of a decision will be served upon the parties and become a part of the record. Service may be by personal service or certified mail, return receipt requested.

12 VAC 5-615-180. Request for hearing.

The commissioner or any person or owner injured by alleged violation of this Chapter may request a hearing of one of the types listed by sending the request in writing to the

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district or local health department. The request for hearing shall cite the reason or reasons for the hearing request and shall cite the section or sections of this Chapter involved.

12 VAC 5-615-190. Hearing as a matter of right.

Any person whose rights, duties, or privileges have been, or may be affected by any decision of the board or its subordinates in the administration of this Chapter shall have a right to both informal and adjudicatory hearings. The commissioner may require participation in an informal hearing before granting the request for a full adjudicatory hearing.

Exception. No person other than an AOSE shall have the right to an adjudicatory hearing to challenge the issuance of a certification to act as an AOSE unless the person can demonstrate at an informal hearing that the minimum standards contained in these regulations have not been applied and that he will be injured in some manner by the issuance of the AOSE certification.

12 VAC 5-615-200. Appeal.

A. Any appeal from a denial of an application for certification as an AOSE must be made in writing and received by the department within 30 days of the date of receipt of notice of the denial.

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B. Any request for hearing on the denial of an application for a variance pursuant to 12 VAC 5-610-190 E.1 must be made in writing and received within 30 days of receipt of the denial notice.

C. Any request for a variance must be made in writing and received by the department prior to the denial of a certification for authorization as an AOSE, or within 30 days after such denial.

D. In the event a person applies for a variance within the 30-day period provided by subsection C of this section, the date for appealing the denial of the certification, pursuant to subsection B of this section, shall commence from the date on which the department acts on the request for a variance.

E. Pursuant to the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), an aggrieved owner may appeal a final decision of the commissioner to an appropriate circuit court.

Part 3

Article 1

AOSE Certification Requirements

12 VAC 5-615-210. Persons holding a valid certificate on the effective date of these regulations. On the effective date of these regulations, any person holding a valid certificate as an AOSE shall be deemed to be an AOSE until June 30, 2001.

12 VAC 5-615-220. Application Requirements. Any person may apply to the Department for certification as an AOSE by filing a complete application in a form approved by the Division, by paying the application fee in accordance with 12 VAC 5-615-240, and by submitting 3 professional references. In addition, all applicants for certification as an AOSE shall meet at least one of the requirements below:

A. Certified Professional Soil Scientist. A person holding a certificate as a Virginia certified professional soil scientist from the Board of Professional Soil Scientists shall be eligible to receive a certificate as an AOSE provided:

1. **The applicant demonstrates to the satisfaction of the Division that he or she posses the knowledge, skills, and abilities necessary to conduct onsite soil**

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evaluations and design those traditional systems that an AOSE is authorized to design, and

2. The applicant demonstrates to the satisfaction of the Division that he or she has spent at least 2 of the last 5 years evaluating site and soil conditions for onsite sewage systems in Virginia in accordance with the Board of Health's regulations (12 VAC 5-610-10 et seq.)

B. Person with 5 years experience. A person who demonstrates to the satisfaction of the Division that he or she has at least 5 years of experience evaluating site and soil conditions for onsite sewage system in Virginia in accordance with the Board of of Health's regulations (12 VAC 5-610-10 et seq.) shall be eligible to receive a certificate as an AOSE provided:

1. The applicant successfully completes a written test approved by the Division, and
2. The applicant successfully completes a field test approved by the Division.

C. Virginia Department of Health employee. A person who is currently employed by the Department as an Environmental Health Specialist and has been employed as such for at least 2 years and has successfully completed all training and testing required of

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Department employees in the onsite wastewater program shall be eligible to receive a certificate as an AOSE.

D. Person with 2 years experience. A person who demonstrates to the satisfaction of the Division that he or she has at least 2 years of experience evaluating site and soil conditions for onsite sewage system in Virginia in accordance with the Board of Health's regulations (12 VAC 5-610-10 et seq.) shall be eligible to receive a certificate as an AOSE provided:

1. The applicant successfully completes a training course or courses approved by the Division,
2. The applicant successfully completes a written test approved by the Division, and
3. The applicant successfully completes a field test approved by the Division.

12 VAC 5-615-230. Disposition of AOSE Applications.

A. Upon satisfactory completion of the requirements of 12 VAC 5-615-220 the commissioner shall issue to the applicant a certification as an AOSE.

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B. Applicants who have been found ineligible for any reason may request further consideration by submitting in writing evidence of additional qualifications, training, or experience. No additional fee will be required provided the requirements for certification are met within one year from the date the original application is received by the Department. After such period, a new application shall be required.

C. If the commissioner finds that the applicant has not met the minimum requirements for certification as an AOSE, the applicant shall be notified in writing, sent by certified mail or hand delivered, and the reasons for denial of the certification shall be stated. The notice to the applicant of denial shall also state that the applicant has the right to hearings as specified in 12 VAC 5-615-170 To challenge the certification denial. Any request for a hearing must be received by the commissioner within 30 days of the affected party's receipt of written notice of the decision.

D. The commissioner may make further inquiries and investigations with respect to the qualifications of the applicant and all references, etc. to confirm or amplify the information supplied. The commissioner may also require a personal interview with the applicant.

12 VAC 5-615-240. Fees for applications, training, and testing. The following fees will be assessed. All fees due the Department shall be paid by check or money order.

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A. Any person making application for certification as an AOSE or applying for renewal of an AOSE certification shall pay an application fee of \$100. Those persons currently employed by the Department shall not be required to pay the application fee.

B. Those persons taking a Department-sponsored training course or courses as specified in 12 VAC 5-615-120 shall pay the fee for such course as determined by the Department. Fees for such course or courses will be based on the Department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses approved by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by the Department, applicants will pay appropriate fees to the sponsoring entity.

C. Those persons taking written and field tests specified in 12 VAC 5-615-220 shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the tests.

12 VAC 5-615-250. Expiration of AOSE certifications. Except as noted in 12 VAC 5-615-110, all AOSE certifications shall expire on June 30th of the second calendar year following the year in which the certificate was issued unless revoked or suspended.

12 VAC 5-615-260. Renewal of expired AOSE Certifications. Any person whose AOSE certification has expired in accordance with 12 VAC 5-615-250 may apply to the

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Department for renewal of that certification. If more than 5 years have lapsed from the expiration of the most recent certification the Department may require an applicant to comply with the provisions of 12 VAC 5-615-220 and paragraph B of this subsection.

An AOSE may apply for renewal not more than 60 days prior to the expiration of his or her AOSE certification.

A. Application and fee. Any person making application for renewal of an AOSE certification shall file a complete application in a form approved by the Division and pay the application fee in accordance with 12 VAC 5-615-240.

B. Continuing Education. Any person making application for renewal of an AOSE certification shall provide documentation that he or she has earned 2 Continuing Education Units (CEUs) in topics related to the evaluation of site and soil conditions for onsite sewage treatment and disposal and/or the design of onsite sewage treatment and disposal systems during the previous two years. For the purposes of this Chapter, a CEU shall be equivalent to 10 contact hours of instruction in subject matter and from sources approved by the Division.

12 VAC 5-615-270. Site evaluations and design certifications to comply with regulations. No AOSE/PE shall certify a site evaluation and/or design *unless* such evaluation and/or design complies with the minimum requirements of *the Sewage*

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Handling and Disposal Regulations and such certification and/or design is produced in accordance with this Chapter.

12 VAC 5-615-280. Revocation or suspension of AOSE certification. The

commissioner may revoke or suspend an AOSE certification for failure to comply with any law administered by the Board, commissioner, or Department, any regulations of the Board, any order of the Board or commissioner, or any conditions in a permit.

A. Actions resulting in suspension or revocation. Actions that may result in revocation or suspension include, but are not limited to, certifying as suitable a site that does not comply with the minimum requirements of *the Sewage Handling and Disposal Regulations*, certifying as suitable a site that has been rejected by the Department unless certified pursuant to 12 VAC 5-615-310, and falsifying any document.

B. Revoking or suspending an AOSE certification. Whenever the commissioner or the commissioner's designee takes action to revoke or suspend an AOSE certification, there must be an informal fact-finding conference and proper notice must be given to the affected party.

1. Notice. The AOSE shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal

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basis for the contemplated action and must give the date, time, place, and location of the informal fact-finding conference.

2. Informal fact-finding conference. The informal fact-finding conference is to be conducted by an employee of the Department appointed by the commissioner. The conference shall be conducted in accordance with § 9-6.14:11 of the Code of Virginia.

3. Decision. The commissioner or the commissioner's designee shall render a decision from the informal fact-finding conference in a timely manner in accordance with § 9-6.14:11 of the Code of Virginia.

4. Time period of suspension or revocation. When action is taken to suspend or revoke an AOSE certification, that suspension or revocation shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, additional testing, and re-evaluation of a site and/or re-design of an onsite sewage system may be specified as conditions for reinstatement of an AOSE certification.

12 VAC 5-615-290. Application for re-instatement of AOSE certification. Any person whose AOSE certification has been suspended or revoked pursuant to 12 VAC 5-

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615-280 must apply to the Department for reinstatement as an AOSE. This application must include:

A. Application and fee. Any person making application for re-instatement of an AOSE certification pursuant to this section shall file a complete application in a form approved by the Division and pay the application fee in accordance with 12 VAC 5-615-240.

B. Documentation of satisfactory completion of remedial actions. Any person making application for re-instatement of an AOSE certification pursuant to this section shall provide documentation that he or she has satisfactorily completed any remedial actions required as a result of the suspension or revocation.

12 VAC 5-615-300. Appeal of suspension or revocation. In accordance with 12 VAC 5-615-170. Any person whose AOSE certification has been suspended or revoked shall have the right to an adjudicatory hearing to challenge the suspension or revocation. Requests for adjudicatory hearings must be received by the commissioner within 30 days of receipt of the Department's notice of suspension or revocation.

12 VAC 5-615-310. AOSE/PE cannot certify a site that has been previously denied by the Department. No AOSE/PE shall certify a site as meeting the minimum requirements of *the Sewage Handling and Disposal Regulations* if the Department has previously denied that site. Exception: An AOSE/PE may certify a previously denied

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site as meeting the requirements of *the Sewage Handling and Disposal Regulations* if the Board's regulations or policies have changed in such a way that the site is suitable for a system that was not allowed by the Board's regulations or policies at the time of the original denial. An AOSE/PE may certify as meeting the requirements of *the Sewage Handling and Disposal Regulations* a site located on the same property as a site previously denied by the Department if the site being certified is not the same one that was denied by the Department.

Part 4**Procedures and Reports****Article 1****Applications****12 VAC 5-615-320. Applications Processing.**

A. All applications that are submitted with evaluation and design documentation by an AOSE/PE shall contain the minimum required information necessary to complete the application and shall be accompanied by the required fees. Such applications will be processed within specified time limits in § 70 of this Chapter.

B. When such an application is found to be complete an approval will be issued without field review.

C. Applications that are found to be incomplete or defective in any manner shall be denied and the owner and AOSE/PE will be notified of deficiencies. If an application has been denied, the owner or their agent may submit a *new* application to correct the deficiency(s) contained in their first application. If the application is received within 90 days, the Department will waive all state fees associated with the new application. This waiver may be granted not more than once per site.

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12 VAC 5-615-330. Documentation Requirements for AOSE/PE Reports

Applications for residential development may be submitted for a single lot construction permit, a single lot certification letter, multiple lot certification letters, and subdivision reviews. The minimum requirements for each type of application are listed below. Additional information may be submitted when an AOSE/PE believes it may be in the client's interest to provide additional information.

A. Applications for a single construction permit. A complete application for a construction permit shall consist of the following information:

1. A completed application for a Sewage Disposal System Construction Permit (CHS 200), signed, dated, and with all pertinent information supplied,
2. The appropriate fee for the application as per the *Code of Virginia*,
3. A site evaluation report,
4. A proposed well site (when a private water supply is proposed),
5. Construction drawings and specifications for the recommended system, and
6. A statement certifying that the site and soil conditions and design conform with the *Sewage Handling and Disposal Regulations*.

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B. Application for a single certification letter. A complete application for certification letter differs from an equivalent application for a construction permit in that a complete design is not required. It is, however, necessary to assure a system meeting the requirements specified on the application can be supported by the proposed site.

Therefore, the requirements for a single certification letter are:

1. A completed application for a Sewage Disposal System Construction Permit (CHS 200), signed, dated, and with all pertinent information supplied,
2. The appropriate fee for the application,
3. A site evaluation report,
4. A proposed well site (when a private water supply is proposed),
5. An abbreviated system design for the type of system proposed,
6. A statement certifying that the site and soil conditions and design conform with the Regulations.

C. Application for multiple certification letters. Applications for multiple certification letters may be used as the method for reviewing proposed subdivisions in localities that do not require the local health department to review proposed subdivisions. Each application submitted must contain the following:

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1. Completed applications for Sewage Disposal System Construction Permits (CHS 200), signed, dated, and with all pertinent information supplied,

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2. The appropriate fee for each site to be reviewed,
3. Site evaluation reports,
4. Proposed well sites (when a private water supply is proposed),
5. Abbreviated system designs for the type of system proposed,
6. A statement for each proposed site certifying that the site and soil conditions and design conform with the *Sewage Handling and Disposal Regulations*, and
7. If the multiple certification letters are intended to establish the suitability of soils for a proposed subdivision, the information required for a subdivision review in regard to the preliminary subdivision plat is to be submitted by the applicant.

D. Application for subdivision approval. Section 32.1-163.5 of the *Code* provides that VDH shall accept private site evaluations and designs, for subdivision review for residential development, designed and certified by a licensed professional engineer in consultation with an AOSE or by an AOSE. The following shall apply to all requests for subdivision review and approval:

1. All requests for subdivision reviews must be submitted to the local health department with a request from the local government entity specifically asking for review of the proposed lots for onsite wastewater system approvals pursuant to the local ordinance governing such proposals (cite reference to local ordinance).
2. In localities where there is no subdivision ordinance, subdivisions should be handled using applications for multiple certification letters (see procedure above).

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3. All requests submitted by local governments for review and approval must contain the following minimum information:
 - a. Letter requesting subdivision review,
 - b. Individual site and soil evaluation reports for each proposed lot in the subdivision. These individual reports must be identified as to the subdivision and the proposed lot number.
 - c. Preliminary subdivision plat that provides the information specified in 12 VAC 5-610-360.B. This includes all information required by the local ordinance, and includes the following if not required by local ordinance: proposed streets, utilities, storm drainage, water supplies, easements, lot lines, neighboring property lines (within 200'), existing and proposed water supplies for each proposed lot and within 200' of the outermost property line, and original topographic contour lines by detail survey. The plat shall be prepared according to suggested scales and contour intervals contained in Appendix L of the *Sewage Handling and Disposal Regulations*.
4. Abbreviated system designs for the type of system proposed, and
5. A statement for each proposed site certifying that the site and soil conditions and design conform to the *Sewage Handling and Disposal Regulations*.

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<u>Type of Applications</u>				
	<u>Single Lot Construction Permit</u>	<u>Single Lot Certification Letter</u>	<u>Multiple Lot Certification Letters</u>	<u>Subdivision</u>
<u>Application</u>	X	X	X	
<u>Fee</u>	X	X	X	
<u>Site Evaluation</u>	X	X	X	X
<u>Proposed Well Site</u>	X	X	X	X
<u>Construction Drawings</u>	X			
<u>Construction Specifications</u>	X			
<u>Design Calculations</u>	X			
<u>Abbreviated Design calculations</u>		X	X	X
<u>Certification of Compliance</u>	X	X	X	X
<u>Local Government Request</u>				X
<u>Preliminary Subdivision Plat</u>			X (as necessary)	X
<u>Max. Time to Process</u>	15	20	60	60
<u>Rec. Time to Process</u>	5	10	45	45

Table 3.1

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12 VAC 5-615-340 Site Evaluation Reports.

All site evaluation work submitted to the Department shall be in the form specified below and shall be certified as fully complying with the *Sewage Handling and Disposal Regulations*. A statement approved by the Department shall be used to certify that a site evaluation and/or design complies with the Board's regulations for onsite sewage systems. No approval shall be granted without field review for any site that has not been certified by an AOSE/PE.

A. Soil profile holes. A minimum of three soil-profile descriptions, representative of the proposed sewage disposal system are required. The area shall be described in sufficient detail to be representative of both the original system area and any required repair area. The maximum acceptable separation distance between observation holes is 100 feet. When soil variability or marginally satisfactory conditions exist, sufficient additional soil-profile descriptions shall be made to assure the site complies with the *Sewage Handling and Disposal Regulations*. When a required reserve area is not adjacent to a proposed sewage disposal system area, the minimum soil-profile documentation shall apply to both the primary area and the reserve area. The use of common holes between adjacent proposed sewage disposal system sites to describe both sites is not an acceptable practice.

B. Soil profile descriptions. Soil profile descriptions shall be made to a depth sufficient

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to determine if a restrictive zone, such as a water table, rock, fragipan, impermeable horizons or other limiting factors exist within the stand-off distance beneath an absorption trench.

1. Scope of descriptions. Each soil profile hole drilled or dug during a soil investigation must be accurately described and located on the site sketch. All holes used for drainfield documentation shall be completely described to meet the requirements of the *Sewage Handling and Disposal Regulations*. All holes or pits in the proposed drainfield area must be described with horizon depths, soil textures and depth to soil restriction or redoxymorphic features.

2. Content of descriptions. The major horizons of all soil profiles are to be documented using U. S. Department of Agriculture soil textural classes and Standard Munsell Linguistic color equivalents. The following soil characteristics must be documented (See 12 VAC 5-610-490):
 - a. Soil Color (matrix and mottle patterns)
 - b. Soil Texture (including the percent and size of coarse fragments)
 - c. Soil Horizons and Horizon Depths
 - d. Shrink-Swell potential (if moderate or greater)

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- e. When backhoe pits are used, the complete range of soil characteristics exposed is to be described (depth to mottles, rock percentage and depth to rock or other restrictive layers & variability in rock depth).
 - f. Depth to rock or restrictive layers (when applicable).
 - g. Soil permeability. If tests are conducted (including percolation tests, hydraulic conductivity tests, and other measures of soil permeability), a copy of all test results must be included with the application. Permeability tests conducted by an AOSE/PE do not require VDH supervision.
3. Additional information. The following soil characteristics should be documented when they provide additional information regarding soil suitability;
- a. Soil consistence
 - b. Soil structure (type, class and grade)
 - c. Soil mottling patterns (abundance, contrast and size)
 - d. Soil parent material and geologic province
 - e. Clay mineralogy and the existence of various soil minerals (feldspar, mica, quartz, etc.)

C. Site Sketch. A site sketch shall be provided which accurately represents the location of all soil observation holes and/or pits at each site. Sketches shall be neatly lined and

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when possible, scale drawings should be used. When scale drawings are not practical, the sketch shall provide accurate documentation (distances) between holes and suitable reference points. As a minimum, the following on and off site features within 200 feet of any portion of a proposed drainfield and reserve area should be shown:

1. Existing and proposed wells, springs and cisterns. If a private water supply is required as part of the proposed residential development under an application, the proposed water supply or supplies must be located in compliance with the *Private Well Regulations* 12 VAC 5-630-10, et. sec.
2. Drainfields and proposed drainfields
3. Percent slope and slope direction, or an acceptable topography map
4. Structures (buildings, etc.)
5. Easements, rights of way, roads, property lines, lakes, streams, buried utilities and tile drainage
6. Shellfish waters, surface impoundments used for drinking water and drainage ditches
7. Sinkholes, drainage ways, and flood plains
8. Compliance with Chesapeake Bay Local Assistance Department requirements and local regulations should be documented when applicable.
9. Any other information which may have bearing on the issuance of any approval by the Department.

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D. Other. Additional information required by local ordinances (i.e. Chesapeake Bay requirements) shall be included with an AOSE submission in order to facilitate processing the application. However, for the purposes of an AOSE/PE certifying that an evaluation and/or design complies with the *Sewage Handling and Disposal Regulations* and for “deemed approval” only those requirements contained in the Board of Health’s regulations will be considered to apply unless a local government has requested its health department to implement a more restrictive local ordinance in accordance with §50.B of this Chapter.

E. Report Format

1. Application. The Department shall establish an approved form for making application for a site approval (permit or certification letter).
2. The Department may establish a format for submitting information required by this Chapter or by the *Sewage Handling and Disposal Regulations*. Where the Department has not recommended a form, an AOSE/PE may submit the required information in a format of their choosing. Substitute forms containing the same minimum data set found on the Department’s form and in a format that is legible and consistent with the Department’s data entry needs may be allowed at the discretion of the Department. The Division of Onsite Sewage and Water Services shall have discretion to determine what constitutes an acceptable form.

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3. Abbreviations are appropriate when making field observations and describing soil profiles. These same abbreviations are not considered appropriate in a formal report to Department and shall not be used in soil reports submitted pursuant to the requirements of this Chapter.
4. Recommendations regarding estimated percolation rates and drainfield size requirements shall be included. Measured percolation rates may be used if available.
5. A blank 8.5 by 11 page is recommended for use when preparing the site sketch required in paragraph C of this subsection.
6. All work submitted in support of a construction permit, certification letter, or subdivision shall be signed and dated. To accomplish this, each page of a submission must be numbered using the format "Page ____ of ____" in the top right hand corner of each page. The last page of the submission shall be the certification statement and shall be signed. This will assure the health department has in its possession, at the time of the review, a complete package of the information submitted.

F. Site Identification. Wastewater system sites proposed for use must be defined in a manner that allows them to be identified with an accuracy and precision of 3 feet or less.

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12 VAC 5-615-350. System Design Requirements

A. General. All applications for construction permits accompanied by an AOSE/PE certification shall contain construction drawings, plans, and specifications sufficient to assure the system is installed in accordance with the *Sewage Handling and Disposal Regulations* and the proposed permit. When a system is sufficiently complex to require the practice of engineering, a professional engineer shall seal the plans and specifications. The design information necessary to issue a sewage disposal system construction permit includes:

1. All the information required on form CHS 202 A and B (See Appendix B, *Sewage Handling and Disposal Regulations*).
2. System construction drawings. Drawings shall show lot lines of the building lot and building site, slope, and any topographic features which may impact on the design of the system, all existing and/or proposed structures including sewage disposal systems and wells within 200 feet of the proposed dwelling, sewage disposal system and reserve area and any easements or utilities. The scale drawing of the sewage disposal system shall show sewer lines, pretreatment unit (if applicable), pump station (if applicable), conveyance system, and subsurface soil absorption system, reserve area, and other relevant features which may affect the proper operation and functioning of the system or be affected by the same. When a

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nonpublic drinking water supply is to be located on the same lot all sources of pollution within 200 feet shall be shown.

3. Plans and specifications. Plans and specifications sufficient to allow the successful installation of a system shall be included when the application is for a construction permit.

4. Design calculations. Design calculations used to establish the design parameters of the recommended system shall be submitted. Design calculations must include the following as deemed appropriate by the Department:

- a. Calculations indicating that the minimum separation distance to seasonal ground water or rock is provided;
- b. Minimum depth of trenches and separation of trenches when slopes are greater than 10%;
- c. Design flow calculations used for septic tank and drainfield sizing based on bedrooms or per person;
- d. When a pump is used, the calculations will show the static head, friction head and total dynamic head at the operating condition of the pump. The pump curve shall also be provided;
- e. Pump tank volumes and emergency storage requirements;
- f. Trench bottom area, number of trenches, and center-to-center spacing;

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g. Low pressure distribution design calculations;

h. Wisconsin mound design calculations;

5. Three copies of the construction drawing and specifications shall be submitted at the time of application.

6. Items 1 through 5 above establish the *minimum* information necessary to issue a construction permit. Additional information may be necessary depending on the specific site. Applications that do not contain this minimum data set shall be denied.

B. Certification Letter and Subdivision Design requirements

Certification letters do not normally require a complete design with specifications. Prior to applying for a certification letter an AOSE/PE, or other consultant, shall conduct evaluations and provide documentation sufficient to verify that sufficient area is available for the proposed system, including setback distances, and that the soils are capable of supporting the proposed design flow.

C. Certification Statement. All site evaluation work submitted in support of a construction permit, certification letter, or subdivision review shall be in the form specified above and shall be certified as fully complying with the *Sewage Handling and*

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Disposal Regulations. A certification statement approved by the Department shall be used to make such certification.

D. Site Denials. In some cases an owner may desire to submit an application with a certification by an AOSE/PE stating that a site does not comply with the minimum requirements of the *Sewage Handling and Disposal Regulations*. In such cases an AOSE/PE may submit the appropriate reports and information as required by this Chapter and the Department shall process the application in accordance with the procedures for processing applications for permits and letters. Instead of issuing a permit or letter, the Department will issue a denial letter.

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Part 5

Article 1

Conflict of Interest and Disclosure

12 VAC 5-615-360. Responsibility to the public. The primary obligation of the AOSE is to the public. If the AOSE judgment of the AOSE is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the AOSE shall inform the employer or client of the possible consequences and notify appropriate authorities.

12 VAC 5-615-370. Public statements.

A. The AOSE shall be truthful in all AOSE matters.

B. When serving as an expert or technical witness, the AOSE shall express an opinion only when it is based on an adequate knowledge of the facts in the issue and on a background of competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the AOSE shall issue no statements, reports, criticisms, or arguments on matters relating to AOSE practice which are inspired or paid for by an interested party or parties, unless the AOSE has prefaced the comment by disclosing the identities of the party or parties on whose behalf the AOSE is speaking, and by revealing any self-interest.

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C. An AOSE shall not knowingly make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for licensure, certification, registration, renewal or reinstatement.

D. An AOSE shall not knowingly make a materially false statement or fail to deliberately disclose a material fact requested in connection with an application submitted to the Department by any individual or business entity for licensure, certification, registration, renewal or reinstatement.

12 VAC 5-615-380. Conflicts of interest.

A. The AOSE shall promptly and fully inform an employer or client of any business association, interest, or circumstance or circumstances which may influence the AOSE's judgment or the quality of service.

B. The AOSE shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed in writing to all parties of current interest.

C. The AOSE shall neither solicit nor accept financial or other valuable consideration from suppliers for specifying their products or services.

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D. The AOSE shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the AOSE is responsible.

12 VAC 5-615-390. Solicitation of work. In the course of soliciting work:

A. The AOSE shall not bribe.

B. The AOSE shall not falsify or permit misrepresentation of the AOSE's work or an associate's academic or AOSE qualifications, nor shall the AOSE misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.

12 VAC 5-615-400. Competency for assignments.

An AOSE shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

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12 VAC 5-615-410. AOSE responsibility.

A. The AOSE shall not knowingly associate in a business venture with, or permit the use of the AOSE's name or firm name by any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

B. An AOSE who has direct knowledge that another individual or firm may be violating any of these provisions, or the provisions of Article 1 of Chapter 6 of Title 32.1 of the Code of Virginia, shall immediately inform the commissioner in writing and shall cooperate in furnishing any further information or assistance that may be required.

C. The AOSE shall, upon request or demand, produce to the commissioner, or any of his or her agents, any plan, document, book, record or copy thereof in his possession concerning a transaction covered by this Chapter, and shall cooperate in the investigation of a complaint filed with the commissioner against a certificate holder.

D. Except as provided in item E below, an AOSE shall not utilize the evaluations, design, drawings or work of another AOSE without the knowledge and written consent of the AOSE or organization of ownership that originated the design, drawings or work. In the event that the AOSE who generated the original document is no longer employed by the design firm retaining ownership of the original documents or is deceased, another

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AOSE who is a partner or officer in the design firm retaining ownership of the original documents may authorize utilization of the original documents by another AOSE or firm.

E. The information contained in Department of Health records, on which a decision to approve or deny a site has been made, shall be considered to be in the public domain and may be utilized by an AOSE without permission.

F. An AOSE who relies on information in Department of Health files or has received permission to modify or otherwise utilize the evaluation, design, drawings or work of another AOSE pursuant to subsection D or E of this section may certify that work only after a thorough review of the evaluation, design, drawings or work to the extent that full responsibility shall be assumed for all design, drawings or work.

G. The information contained in recorded plats or surveys may be utilized by an AOSE without permission. If modifications are to be made to the plats or surveys, such modifications shall only be made by a person or persons authorized pursuant to Title 54.1, Chapter 4 and Title 13.1 of the Code of Virginia to make such changes or modifications to the plats or surveys.

12 VAC 5-615-420. Good standing in other jurisdictions. An AOSE licensed or certified to practice site and soil evaluations or the design of onsite wastewater systems in other jurisdictions shall be in good standing in every jurisdiction where licensed or

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certified, and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action or who have been the subject of discipline in another jurisdiction.